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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Serapio Rafael, Jose Luis Tepale individually)
and on behalf of all other employees similarly)
situated)

**FLSA COLLECTIVE ACTION
COMPLAINT**

Plaintiff,)

-v-

COLLECTIVE ACTION

MICHAEL KHATAMOV (AKA RAFIK)
KHATAMOV or MATAT KHATAMOV) and)
MEER TRADING LLC (DBA AS RAFAEL)
DRY CLEANERS) jointly *and severally*.

UNDER 29 U.S.C. § 216(b)

Defendants.

NATURE OF THE ACTION

1. Plaintiffs Serapio and Jose Tepale bring this action under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201 *et. seq.* in order to remedy Defendants' wrongful withholding of their lawfully earned wages compensation. Plaintiffs also brings these claims under New York Labor Law ("NYLL"), Article 6, §§ 190 *et. seq.*, as well as the supporting New York State Department of Labor Regulations for violations of minimum wage compensation requirements, and failure of Defendants to comply with notice and record-keeping requirements. Defendants engaged in their unlawful conduct pursuant to a corporate policy of minimizing labor costs and denying employees compensation by knowingly violating the FLSA and NYLL. Defendants'

1 conduct extended beyond the Plaintiffs to all other similarly situated employees. Plaintiffs seeks
2 certification of this action as a collective action on behalf of themselves individually and those
3 other similarly situated employees and former employees of Defendants pursuant to 29 U.S.C. §
4 216(b).

5 **SUMMARY**

6
7 2. Plaintiff Rafael was employed by Defendants, MICHAEL KATAMOV and MEER
8 TRADING LLC (DBA AS RAFAEL DRY CLEANERS) (collectively “Defendants”), as a sales
9 assistant from September 7, 2010 until March 18, 2020.

10 3. Plaintiff Tepale was employed by Defendants, MICHAEL KATAMOV and MEER
11 TRADING LLC (DBA AS RAFAEL DRY CLEANERS) (collectively “Defendants”), as a
12 delivery worker from February 2015 until on or about March 18, 2020.

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14 4. Throughout the course of their employment, Plaintiffs worked approximately sixty-
15 eight hours (68) per week – twelve hours from Monday – Friday and eight (8) hours on Saturdays.

16 5. As a result of Defendants’ actions, of not paying at least minimum wage Plaintiffs
17 has suffered great hardship and damages to Plaintiffs

18 **JURISDICTION AND VENUE**

19 **Federal Question Jurisdiction and Supplemental Jurisdiction**

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21 6. This Court has original subject matter jurisdiction over this action under 28 U.S.C.
22 § 1331 because the civil action herein arises under the laws of the United States, namely, the Fair
23 Labor Standards Act and 29 U.S.C. §201 *et seq.* Additionally, this Court also has supplemental
24 jurisdiction over Plaintiffs’ state law claims under 28 U.S.C. §1367(a).
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Personal Jurisdiction

7. This Court may properly maintain personal jurisdiction over Defendants under Rule 4 of the Federal Rules of Civil Procedure because Defendants' contacts with this state and this judicial district are sufficient for exercise of jurisdiction over Defendants so as to comply with traditional notions of fair play and substantial justice.

Venue

8. Venue is proper in the Southern District of New York under 28 U.S.C. §§ 1391 (b) (1) and (2) because Defendants reside and conduct business in this judicial district and because a substantial part of the acts or omissions giving rise to the claims set forth herein occurred in this judicial district.

Corporate Defendant

9. MEER TRADING, LLC is a domestic professional corporation formed on and organized and existing under the laws of the State of New York.

10. MEERS TRADING, LLC owns and operates Rafael's dry cleaning located on 88 Fulton Street, New York, NY 10038.

11. At all relevant times, MEER TRADING, LLC was a covered employer within the meaning of the FLSA, 29 U.S.C. § 203(d), the NYLL § 190, the N.Y. Executive Law § 292(5), and the N.Y. Admin. Code. § 8-102(5).

12. At all relevant times, MEER TRADING, LLC maintained control, oversight, and direction over the Plaintiffs, including timekeeping, payroll and other employment practices that applied to him.

INDIVIDUAL DEFENDANT

SERAPIO RAFAEL

13. Upon information and belief, at all relevant times throughout Plaintiff's employment, MICHAEL KHATAMOV is the owner, authorized operator, manager, and agent of the Corporate Defendant.

14. At all relevant times throughout Plaintiffs employment, Individual Defendant and Corporate Defendant were joint employers of the Plaintiff, acted in the interest of each other with respect to employees, and had common policies and practices as to wages and hours, pursuant to 29 CFR § 791.2.

15. At all relevant times throughout Plaintiffs' employment, Individual Defendant had the discretionary power to create and enforce personnel decisions on behalf of the Corporate Defendant, including but not limited to: hiring and terminating employees; setting and authorizing issuance of wages; maintaining employee records; setting Plaintiff's and other employees' schedule; negotiating Plaintiff's rate of pay; instructing, supervising and training Plaintiff; and otherwise controlling the terms and conditions for the Plaintiff while she was employed by Defendants.

16. At all relevant times throughout Plaintiff's employment, Individual Defendant was actively involved in the day-to-day operations of Corporate Defendant.

17. At all relevant times throughout Plaintiff's employment, Individual Defendant was a "covered employer" within the meaning of the FLSA, the NYLL, the HRL, and the NYCHRL, and employed or jointly employed Plaintiff, and is personally liable for the unpaid wages and other damages sought herein, pursuant to 29 U.S.C. § 203(d), NYLL § 2, N.Y. Executive Law § 296(6), and N.Y. Admin. Code § 8-107(6).

1 18. Upon information and belief, at all relevant times throughout Plaintiff's employment,
2 was one of the owners, authorized operators, managers, and agent of the Corporate Defendant.

3 19. At all relevant times throughout Plaintiff's employment, Individual Defendant and
4 Corporate Defendant were joint employers of the Plaintiff, acted in the interest of each other
5 with respect to employees, and had common policies and practices as to wages and hours,
6 pursuant to 29 CFR § 791.2.
7

8 20. At all relevant times throughout Plaintiffs' employment, Individual Defendant had
9 the discretionary power to create and enforce personnel decisions on behalf of the Corporate
10 Defendant, including but not limited to: hiring and terminating employees; setting and
11 authorizing issuance of wages; maintaining employee records; setting Plaintiff's and other
12 employees' schedule; negotiating Plaintiff's rate of pay; instructing, supervising and training
13 Plaintiff; and otherwise controlling the terms and conditions for the Plaintiff while she was
14 employed by Defendants.
15

16 21. At all relevant times throughout Plaintiff's employment, Individual Defendant was
17 actively involved in the day-to-day operations of Corporate Defendant.
18

19 22. At all relevant times throughout Plaintiff's employment, Individual Defendant was a
20 "covered employer" within the meaning of the FLSA, the NYLL, the HRL, and the NYCHRL,
21 and employed or jointly employed Plaintiff, and is personally liable for the unpaid wages and
22 other damages sought herein, pursuant to 29 U.S.C. § 203(d), NYLL § 2, N.Y. Executive Law §
23 296(6), and N.Y. Admin. Code § 8-107(6).
24

25 **CORPRATE DEFENDANT**

26 23. MEER TRADING, LLC (hereinafter "Defendant Corporation") is a domestic
27 business corporation organized and existing under the laws of the state of New York.
28

1 MEER TRADING, LLC owns and operates Rafael Dry Cleaners located on 88 Fulton street,
2 New York, NY 10038. MEER TRADING, LLC's headquarters are 1578 E 3rd street, Brooklyn
3 NY 11230.

4 24. At all relevant times, RAFAEL DRY CLEANERS employed 3 employees at all
5 times.

6 25. At all relevant times, Defendant Corporation maintained control, oversight, and
7 direction over the Plaintiffs, including timekeeping, payroll, and other employment practices that
8 applied to them.

9 26. At all relevant times, Defendant Corporation was an employer engaged in interstate
10 commerce and/or the production of goods for commerce, within the meaning of the FLSA, 29
11 U.S.C. §§ 206(a) and 207(a) and employed Plaintiffs within the meaning of the FLSA.

12 27. At all relevant times, Plaintiff was employed by Defendant Corporation within the
13 meaning of the NYLL §§ 2 and 651.

14 **FACTUAL ALLEGATIONS**

15 **PLAINTIFF SERAPIO RAFAEL**

16 28. Plaintiff Rafael was employed by Defendants and started working from September
17 7, 2010 until March 18, 2020. He averaged sixty-eight (68) hours per week.

18 29. Throughout his employment, Plaintiff oversaw the entire dry-cleaning business. He
19 took all calls and orders from customers and entered customer information into the system. He
20 put identification and service tags on the clothing and laundry, arranged for pick up and
21 deliveries, managed a tailor and delivery boy, and ensured all clothing was returned to the
22 customers. Plaintiff Rafael was the face of Rafael Dry Cleaners.

23 30. Plaintiff was never paid a lawful minimum wage.
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1 31. From 2014 until 2016, Plaintiff Rafael was paid \$415 per week

2 32. From November 2015 until November 2016, Plaintiff Rafael was paid \$475

3 33. From November 2016 until November 2019, Plaintiff Rafael was paid \$525

4 34. From November 2019 until March 2020, Plaintiff Rafael was paid \$600.

5 35. Throughout the duration of her employment, Plaintiff did not have any supervisory
6 authority, nor did he exercise discretion or independent judgment with respect to matters of
7 significance. Plaintiff had to punch in and out every day through a lottery machine at the Deli.
8

9 36. Plaintiff Serapio had the authority to hire or fire employees do payroll or set
10 employees' work hours. That level of work was left to Defendant Michael Khatamov.
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12 **PLAINTIFF JOSE LUIS TEPALE**

13 37. Plaintiff Tepale was employed by Defendants and started working from November
14 2015 until March 18, 2020. He worked approximately sixty-six (66) hours per week.

15 38. Throughout his employment, Plaintiff did make all the deliveries and performed
16 extreme manual labor for Defendants. Plaintiff oversaw picking up customers laundry, dropping
17 it off at Defendants' dry cleaners and ensuring the customers received their clothing in a timely
18 manner.
19

20 39. Plaintiff was never paid a lawful minimum wage.

21 40. In the beginning of 2015, Plaintiff Tepale was paid \$415 per week.

22 41. In November of 2015, Plaintiff Tepale was paid \$475 per week.

23 42. In November of 2016, Plaintiff Tepale was paid \$525 per week

24 43. In January 2020, Plaintiff Tepale was paid \$600 per week.

25 44. Throughout the duration of her employment, Plaintiff Tepale did not have any
26 supervisory authority, nor did he exercise discretion or independent judgment with respect to
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1 matters of significance.

2 45. Plaintiff Tepale never had any managerial duties, such as hiring and firing
3 employees, doing payroll and setting employees' hours of work.

4 **Defendants' Unlawful Corporate Practices**

5 46. Defendants required Plaintiffs to work and never compensated them for them
6 Work at the lawful minimum wage rate.

7 47. Plaintiffs were never provided with any wage statements, time sheets, or other
8 documents showing the number of hours each had worked every week.

9 48. Plaintiffs were not provided with a wage notice at the time of hire or at any point
10 thereafter.

11 49. Upon information and belief, while Defendants employed Plaintiffs, they failed to
12 post notices explaining the minimum wage rights of employees under the FLSA and NYLL and
13 failed to inform Plaintiff of such rights.

14 50. Defendants willfully disregarded and purposefully evaded record-keeping
15 requirements of the FLSA and NYLL by failing to maintain accurate and complete timesheets
16 and payroll records.

17 51. Plaintiffs were never provided with a wage notice at the time of hire or at any point
18 thereafter, noting her hourly wage increases.

19 52. Upon information and belief, while Defendants employed Plaintiffs, they failed to
20 post notices explaining the minimum wage rights of employees under the FLSA and NYLL and
21 failed to inform Plaintiffs of such rights.

22 53. Plaintiffs have personal knowledge of other employees of Defendants who are
23 similarly situated and who also worked hours for which they were not paid minimum and wages.
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COLLECTIVE ACTION ALLEGATIONS

54. Pursuant to 29 U.S.C. §§ 203, 206, 207, and 216(b), Plaintiffs brings his First and Second causes of action as a collective action under the FLSA on behalf of themselves and the following collective:

All persons employed by Defendants at any time from June 19, 2014 to the present day (the “Collective Action Period”) who worked as non-exempt employees of the Defendants (the “Collective Action Members”).

55. A collective action appropriate in these circumstances because Plaintiffs and the Collective Action Members are similarly situated, in that they were all subject to Defendants’ illegal policies of failing to pay wages at or above the statutory minimum.

56. Plaintiffs and the Collective Action Members have substantially similar job duties and are paid pursuant to a similar, if not the same, payment structure.

57. The claims of the Plaintiffs stated herein are similar to those of the other employees.

FIRST CAUSE OF ACTION

**Fair Labor Standards Act – Violation of Minimum Wage Requirements
(Brought on Behalf of Plaintiffs and the Collective Action Members)**

58. Plaintiffs, on behalf of themselves and the Collective Action Members, reallege and incorporates by reference all allegations made in all preceding paragraphs as if fully set forth herein.

59. Defendants, throughout the majority of their employment period, paid Plaintiffs and the Collective Action Members in amounts below the applicable statutory minimum wage for their hours worked, in violation of the FLSA, 29 U.S.C. § 206.

60. Defendants’ unlawful conduct, as described in this Complaint, has been willful and

1 intentional. Defendants were aware, or should have been aware, that the practices described in
2 this Complaint were unlawful. Accordingly, a three-year statute of limitations applies pursuant
3 to 29 U.S.C. § 255(a).

4 61. As a result of the Defendants' violations of the FLSA, Plaintiffs, and the Collective
5 Action Members have suffered damages by being denied wages at or exceeding the statutory
6 minimum in accordance with the FLSA in amounts to be determined at trial and are thus entitled
7 to recovery of such amounts, liquidated damages, attorneys' fees, costs, and other compensation
8 pursuant to 29 U.S.C. § 216 (b).
9

10 **SECOND CAUSE OF ACTION**

11 **New York Labor Law – Violation of Minimum Wage Requirements**

12 62. Plaintiffs realleges and incorporates by reference all allegations in all preceding
13 paragraphs as if fully set forth herein.

14 63. Defendants, throughout the majority of Plaintiffs' employment, paid Plaintiffs less
15 than the applicable statutory minimum wage for her hours worked in violation of NYLL § 652
16 and the supporting New York State Department of Labor regulations, including 12 N.Y.C.R.R.
17 Part 146-1.2.
18

19 64. Defendants' failure to pay Plaintiffs the minimum wage lacked a good faith basis
20 within the meaning of NYLL § 663.
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22 65. Due to Defendants' violations of the NYLL, Plaintiffs is entitled to recover from
23 Defendants her unpaid minimum wages, liquidated damages as provided for by the NYLL,
24 reasonable attorneys' fees, costs, and pre-judgment and post-judgment interest, pursuant to NYLL
25 § 198 (1-a).
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THIRD CAUSE OF ACTION

New York Labor Law – Failure to Provide Accurate Wage Statements

66. Plaintiffs realleges and incorporates by reference all allegations in all preceding paragraphs.

67. Defendants have failed to provide Plaintiffs with complete and accurate wage statements throughout their employment listing, *inter alia*, all regular hours of work, her rate of pay, and the basis of pay, in violation of NYLL § 195(3).

68. Due to Defendants' violations of the NYLL, Plaintiffs is entitled to recover from Defendants' statutory damages of Two Hundred and Fifty dollars (\$250) per workday that the violation occurred, up to a maximum of Five Thousand Dollars (\$5,000), pursuant to NYLL § 198 (1-d).

FOURTH CAUSE OF ACTION

New York Labor Law – Failure to Provide Notice at Time of Hiring

69. Plaintiffs realleges and incorporates by reference all allegations in all preceding paragraphs.

70. Defendants failed to provide Plaintiffs at the time of hiring or at any point thereafter, a notice containing the rate of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; the regular pay day designated by the employer; the physical address of the employer's main office or principal place of business; the telephone number of the employer, and anything otherwise required by law, in violation of NYLL § 195(1).

71. Due to Defendants' violations of the NYLL § 195(1), Plaintiffs is entitled to recover from Defendants statutory damages of Fifty dollars (\$50) per workday that the violation occurred, up to a maximum of Five Thousand Dollars (\$5,000) pursuant to NYLL § 198 (1-b).

1 -judgment interest, damages for emotional distress, attorney's fees, costs, and other such damages
 2 of an amount to be determined at trial, pursuant to N.Y. Executive Law § 297(9).

3 72. Defendant Khatamov is jointly and severally liable for the aforementioned damages,
 4 since he incited, compelled and coerced the above discriminatory and unlawful conduct pursuant
 5 to N.Y. Executive Law § 296(6).
 6

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff seeks the following relief:

9 A. Issuance of a declaratory judgment that the practices complained of in this
 10 complaint are unlawful under the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*, New York
 11 Labor Law, Article 19, §§ 650 *et seq.*, and supporting New York State Department of Labor
 12 Regulations, the New York Executive Law § 296, and the N.Y. Administrative Code. §§ 8–107;
 13

14 B. Unpaid minimum wages pay under the FLSA and an additional and equal amount
 15 as liquidated damages pursuant to 29 U.S.C. § 216(b) and the supporting United States
 16 Department of Labor Regulations;
 17

18 C. Unpaid minimum wages under NYLL, and an additional and equal amount as
 19 liquidated damages pursuant to NYLL §198(1-a) and § 663(1);

20 D. Civil penalties of One Thousand One Hundred Dollars (\$1,100.00) for each of
 21 Defendants' willful and repeated violations of the FLSA pursuant to 29 U.S.C. § 216(b);
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23 E. An award of statutory damages for Defendants' failure to provide Plaintiff with a
 24 wage notice at the time of hiring, or at any point thereafter, pursuant to NYLL § 198 (1-b);

25 F. An award of statutory damages for Defendants' failure to provide Plaintiff with
 26 wage statements, pursuant to NYLL § 198 (1-d);
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1 G. An award of back wages, front wages, liquidated damages, damages for
2 emotional distress, and punitive damages for the Defendants' prohibited retaliation against
3 Plaintiff pursuant to 29 U.S.C. § 215(3);

4 H. An award of front pay, lost compensation, damages for emotional distress,
5 punitive damages, and liquidated damages up to a maximum of Twenty Thousand Dollars
6 (\$20,000.00), for Defendants' prohibited retaliation against Plaintiff pursuant to NYLL §
7 215(2)(a);

9 I. A civil penalty of a maximum of Ten Thousand Dollars (\$10,000.00) for
10 Defendants' prohibited retaliation against Plaintiff pursuant to 29 NYLL § 215(1)(b);

11 J. A permanent injunction requiring Defendants to pay all statutorily required wages
12 pursuant to the FLSA and NYLL;

14 K. An award of back wages, front wages, pre-judgment interest, damages for
15 emotional distress, and punitive damages for Defendants' discrimination and sexual harassment
16 against Plaintiff, pursuant to N.Y. Admin. Code § 8-502(a);

17 L. If liquidated damages pursuant to FLSA, 29 U.S.C. § 216(b) are not awarded, an
18 award of prejudgment interest pursuant to 28 U.S.C. § 1961;

20 M. An award of pre-judgment interest of nine per cent per annum (9%) pursuant to
21 the New York Civil Practice Law and Rules §§ 5001-5004;

22 N. An award of post-judgment interest pursuant to 28 U.S.C. § 1961 and/or the New
23 York Civil Practice Law and Rules § 5003;

24 O. An award of attorney's fees, costs, and further expenses up to Fifty Dollars
25 (\$50.00), pursuant to 29 U.S.C. § 216(b), NYLL §§ 198 and 663(1), N.Y. Admin. Code § 8-
26 502(g); and
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1 P. Such other relief as this Court shall deem just and proper.

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3 Dated: New York, New York
4 June 19, 2020

5 **STILLMAN LEGAL PC**

6 By: /s/_____
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